

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

FAIR ISAAC CORPORATION, a) Case No. 16-cv-1054 (DTS)
Delaware corporation,)
)
Plaintiff,)
)
v.)
)
FEDERAL INSURANCE COMPANY,)
an Indiana corporation and ACE)
AMERICAN INSURANCE)
COMPANY, a Pennsylvania)
corporation,)
)
Defendants.)

**DECLARATION OF HEATHER KLIBENSTEIN IN SUPPORT OF
PLAINTIFF FAIR ISAAC CORPORATION'S MOTION FOR DISMISSAL OF
FEDERAL'S COUNTERCLAIMS AS A MATTER OF LAW**

I, Heather Kliebenstein, declare as follows:

1. I am a shareholder with Merchant & Gould P.C., and I am one of the attorneys of record for Plaintiff Fair Isaac Corporation in the above captioned matter.
2. I make this Declaration on my own information, knowledge, and belief in support of Plaintiff Fair Isaac Corporation's Motion for Dismissal of Federal's Counterclaims as a Matter of Law.
3. Attached hereto as Exhibit 1 is a true and correct copy of Federal Insurance Company's Answers to Plaintiff's First Set of Interrogatories dated May 11, 2017, which is Plaintiff's Trial Exhibit P-964.

4. Attached hereto as Exhibit 2 is a true and correct copy of Federal Insurance company's Supplemental Answers to Plaintiff's First Set of Interrogatories dated June 15, 2017, which is Plaintiff's Trial Exhibit P-0146.

5. Attached hereto as Exhibit 3 is a true and correct copy of Federal's Rule 26(a)(1) Disclosures dated March 17, 2017.

6. Attached hereto as Exhibit 4 is a true and correct copy of Federal Insurance Company's Rule 26(a)(1) Supplemental Disclosures dated January 28, 2019.

7. Attached hereto as Exhibit 5 is a true and correct copy of Federal Insurance Company's Rule 26(a)(1) Second Supplemental Disclosures dated March 22, 2019, which is Plaintiff's Trial Exhibit P-501.

8. Attached hereto as Exhibit 6 is a true and correct copy of excerpts of the Trial Transcripts.

9. Attached hereto as Exhibit 7 is a true and correct copy of the Pre-Trial Conference transcript dated February 3, 2023.

10. Attached hereto as Exhibit 8 is a true and correct copy of Defendants' Ninth Supplemental Answer to Plaintiff's Interrogatory No. 17 dated September 24, 2020, which is Plaintiff's Trial Exhibit P-1007A.

11. Attached hereto as Exhibit 9 is a true and correct copy of Defendants' Seventh Supplemental Answer to Plaintiff's Interrogatory No. 19 dated September 24, 2020, which is Plaintiff's Trial Exhibit P-1008A.

12. Attached hereto as Exhibit 10 is a true and correct copy of *Garrett v. Albright*, 2008 U.S. Dist. LEXIS 142196.

13. Attached hereto as Exhibit 11 is a true and correct copy of *Garcia v.*

Monument Mgmt. Group L.L.C., 2006 U.S. Dist. LEXIS 48532.

14. Attached hereto as Exhibit 12 is a true and correct copy of *Geelan v. Mark Travel Inc.*, 2006 U.S. Dist. LEXIS 89863.

I declare under the penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: March 6, 2023

/s/Heather Kliebenstein

Heather Kliebenstein